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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,319	09/01/2004	Norbert Lentz	22970	8346
535	7590	12/14/2005	EXAMINER	
THE FIRM OF KARL F ROSS 5676 RIVERDALE AVENUE PO BOX 900 RIVERDALE (BRONX), NY 10471-0900			TOLAN, EDWARD THOMAS	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/506,319	<b>Applicant(s)</b> LENTZ ET AL.	
	<b>Examiner</b> Edward Tolan	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-1-2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6 the terms "with or without a step-down drive and an increment or angle sensor" are unclear, it is not possible to tell if Applicant's drive has a step-down and an angle sensor or just an angle sensor or neither?

Claim 3 recites the limitation "each pivot arm" in line 2. There is insufficient antecedent basis for this limitation in the claim. Only a single arm has been set forth in claim 2.

Claim 4 terminology "wherein by a calibrating body..." is awkward. In line 4, "the shaping tool" is not clear, two shaping tools have been set forth in claim 1.

Claim 6 recites the limitations "the actual value current output" in line 3, "the electrical drive" in line 3, "the angular position" in line 4 and "the force curve" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Claim 7 recites the limitation "the force curves" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frei (4,487,048) in view of Kadotani (4,869,088) and further in view of Bajraszewski et al. (5,528,917). Frei discloses an apparatus (1) for shaping can bodies (24) having two opposed rotating tools (2,3) mounted on arms (6,7). A gearing (9,10,11,12) is driven by a drive motor (column 3, line 49). In column 5, lines 30-35 Frei discloses multiple beading apparatuses. Frei does not disclose that the drive is a controllable drive. Kadotani teaches an arm (24) driven by a controllable drive (25) which receives signals from a computer (40) based upon sensor (31) measurements. It would have been obvious to one skilled in the art at the time of invention to provide Frei with a controllable drive as taught by Kadotani in order to control a motor speed or torque.

Frei in view of Kadotani does not disclose an increment sensor. Bajraszewski teaches that it is known to use an encoder to monitor a position of a roll support arm (30) by keeping track of an amount of movement of a motor (column 4, lines 5-12). Bajraszewski teaches teaches a force vs. position curve (column 3, lines 64-67). It

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would have been obvious to one skilled in the art at the time of invention to provide Frei in view of Kadotani with a motor position control as taught by Bajraszewski in order to provide automatic indexing of the motor.

***Allowable Subject Matter***

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The prior art of record does not disclose a calibrating ring that serves as a reference point for setting a null point of the increment or angle sensor after changing of a shaping tool.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schafer (4,366,691) discloses a stepdown transmission for driving respective roller shafts.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 571-272-4525.

ED TOLAN  
PRIMARY EXAMINER

